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Security Council

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Letter dated 18 June 2014 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General

Upon instruction from my Government, I have the honour to attach herewith a letter addressed to the Secretary-General from Syrian and Arab lawyers (see annex).

It would be highly appreciated if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Bashar **Ja'afari**
Ambassador
Permanent Representative

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Annex to the letter dated 18 June 2014 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General

[Original: Arabic]

We, the undersigned lawyers, wish to affirm the following points:

Certain parties have been attempting to obtain a Security Council resolution under Chapter VII of the Charter of the United Nations in order to allow the entry of humanitarian aid without the agreement of the Syrian Government, even though the latter has not prevented anyone from going anywhere since the outset of the crisis. The sole purpose of the initiative is to use United Nations auspices for the delivery of logistical backing to the terrorists, in preparation for the establishment of "humanitarian corridors" under the protection of those very States that brought terrorism onto Syrian national territory. The corridors would assist the terrorists as a prelude for an attack on the Syrian State, using the pretext that the latter has violated the resolution that those parties are now trying to obtain from the Council. The proposed resolution uses humanitarian pretexts to conceal an aggressive intent that is inconsistent with the Charter and with United Nations counter-terrorism resolutions. Moreover, many of the terrorists are of non-Syrian origin, as evidenced by the letters and supporting documents sent to the Security Council by the Permanent Representative of the Syrian Arab Republic to the United Nations. We therefore support the Syrian State in standing up to such schemes. Our legal arguments are as follows:

First, in order to import any type of humanitarian aid to a Member State of the United Nations, prior consent must be obtained from that State. The decision whether to agree or refuse is a matter of national jurisdiction. Under Article 2, paragraph 7, of the Charter, the United Nations may not intervene in such matters, and no Member State may submit them to settlement under the Charter. That principle of the United Nations is reaffirmed in the relevant resolutions and the guiding principles contained in General Assembly resolution 46/182 of 19 December 1991. Paragraph 3 of the guiding principles provides that the sovereignty, territorial and integrity and national unity of States must be fully respected in accordance with the Charter of the United Nations.

Humanitarian aid must therefore be imported with the agreement of the affected State. That point is emphasized in Security Council resolution 2139 (2014) on the humanitarian situation in Syria, which explicitly reaffirms the Council's strong commitment to the sovereignty, independence, unity and territorial integrity of Syria and to the purposes and principles of the Charter.

Second, as Rousseau said, the facts are subject to justice, and not justice to the facts. It follows that the terrorist groups' control of certain border areas of Syria cannot grant them any form of legitimacy that would allow Member States or international organizations to enter into relations with them as though they had sovereign prerogatives. Such a situation would risk violating the Charter of the United Nations, the Universal Declaration of Human Rights and the United Nations counter-terrorism resolutions. It would amount to international recognition of the groups' legitimacy, which would in turn require the United Nations to apply to the terrorist groups the same standards set forth in the Charter in respect of any agreement that it may conclude with them.

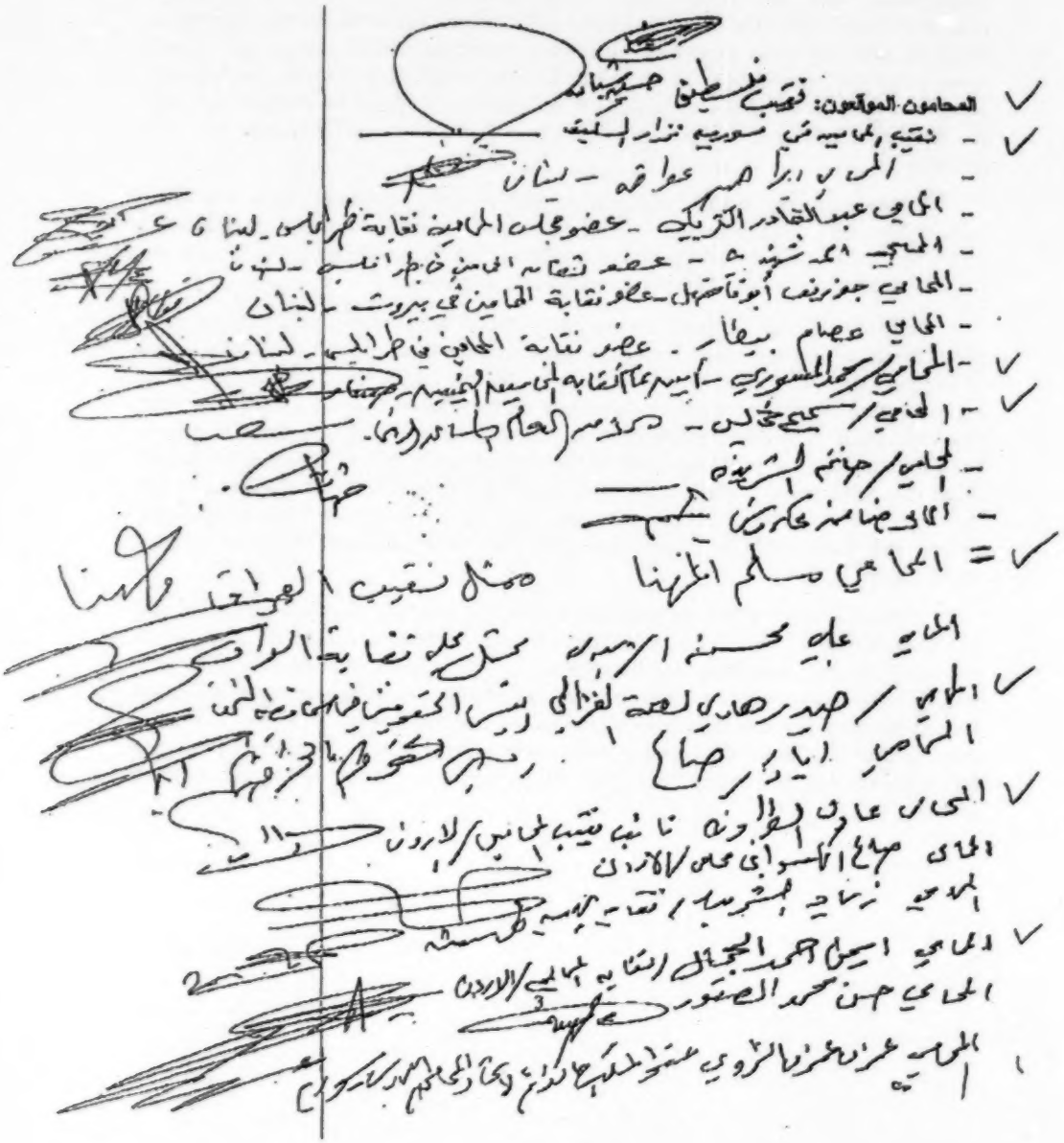
Incidentally, the States and organizations that support importing humanitarian aid into Syria in coordination with the terrorist organizations and without consultation with the Syrian State would thereby violate General Assembly resolution 3034 (XXVII) of 18 December 1972, which urges States to cooperate in order to take effective measures to combat terrorism. Such a precedent would imperil the very foundations of the United Nations and, in particular, its foremost objective, namely the peaceful settlement of disputes. It would be inconsistent with the right of the State to protect its citizens and exercise sovereignty over all of its territory.

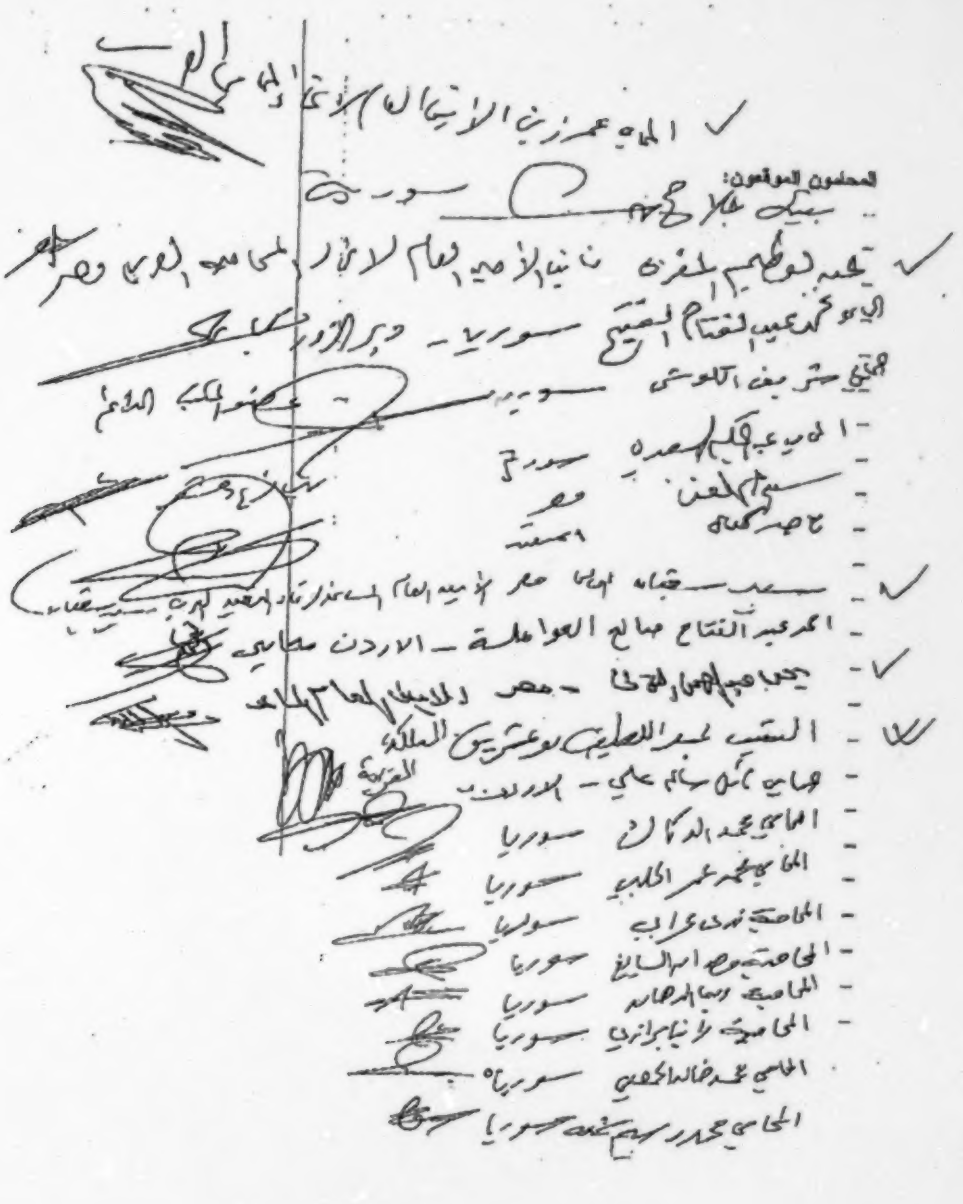
Third, importing aid in coordination with terrorist organizations and without consultation with the Syrian State would amount to an attack on the Syrian State and on its territorial integrity and political independence. Not only would it violate the Charter; it would use the Charter as a pretext for aggression.

Fourth, Security Council resolution 1624 (2005) calls upon all States to prohibit by law incitement to terrorism, prevent such conduct and deny safe haven to any persons with respect to whom there is credible and relevant information. The approach that certain parties wish to impose on the United Nations clearly infringes that resolution. It would legitimize relations with terrorist organizations that have been included on the terrorism lists of the vast majority of world States, including those that fund and arm the groups both covertly and openly. It would also prevent the Syrian State from enforcing the international counter-terrorism resolutions; indeed, the State would be subjected to measures under Chapter VII of the Charter for doing so.

Fifth, it follows that the Syrian State's refusal to allow the United Nations and non-governmental organizations to deliver aid without its formal approval is grounded in and motivated by the Charter of the United Nations, international resolutions and Syrian counter-terrorism legislation. Syria's stance is based on United Nations law and resolutions. If anyone describes it as arbitrary, we invite them to provide the legal bases for their novel argument, which amounts to saying that the only way to protect civilians from terrorism is not to fight it, but to work with it.

Signatories





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